

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

GREATER BIRMINGHAM
MINISTRIES and ALABAMA STATE
CONFERENCE OF THE NATIONAL
ASSOCIATION FOR THE
ADVANCEMENT OF COLORED
PEOPLE,

Plaintiffs,

v.

STATE OF ALABAMA; ROBERT J.
BENTLEY, in his official capacity as
Governor of Alabama; LUTHER J.
STRANGE, in his official capacity as the
Alabama Attorney General; JOHN
MERRILL, in his official capacity as the
Alabama Secretary of State; and
SPENCER COLLIER, in his official
capacity as the Secretary of the Alabama
Law Enforcement Agency,

Defendants.

Civil Action No. 2:15-cv-02193-LSC

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs,

Greater Birmingham Ministries and the Alabama State Conference of the NAACP
(collectively “Plaintiffs”), move for a preliminary injunction against Defendants,
the State of Alabama, the Governor, the Attorney General, the Secretary of State,

and the Secretary of the Alabama Law Enforcement Agency (collectively “Defendants”).

Pursuant to 52 U.S.C. §§ 10302(b) and 10501 and for all upcoming elections, including, but not limited to the March 1, 2016 primary, the April 12, 2016 runoff, the August 23, 2016 municipal elections and subsequent runoffs, and the November 8, 2016 general election, Plaintiffs move the Court to order Defendants to administer the Positively Identify Provision, Ala. Code § 17-9-30(e) (2011), to require election officials to “positively identify” and provide a regular ballot to a registered voter who lacks the photo ID required by Alabama law, *id.* § 17-9-30(a), if that voter can: (a) accurately answer questions about identifying information in the poll book, such as the voter’s name and address, (b) sign an affidavit confirming the voter’s own identity, or (c) produce a form of non-photo ID that was previously acceptable under Alabama’s non-photo voter ID law, Ala. Code § 17-11A-1 (2003), including:

1. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;
2. A valid Alabama hunting or fishing license;
3. A valid Alabama permit to carry a pistol or revolver;

4. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;
5. A certified birth certificate;
6. A valid Social Security card;
7. Certified naturalization documentation;
8. A certified copy of court records showing adoption or name change;
9. A valid Medicaid card, Medicare card, or an Electronic Benefits Transfer Card;
10. A valid voter registration certificate.

The Court should permit only one good faith exception to this rule: Where an election official signs an affidavit stating, with particularity, a basis to doubt the voter's claimed identity, the election official would not be required to positively identify the voter. Plaintiffs also move this Court to require Defendants to maintain copies of all executed affidavits related to the Positively Identify Provision for the remainder of this litigation.

Given the present absence of guidance for the Positively Identify Provision and the unfettered discretion that it gives to election officials, the preliminary injunction is necessary to protect the voting rights of the approximately 280,000 registered voters—as initially estimated by the Secretary of State—who lack one of the seven forms of photo ID required to vote in-person or absentee in Alabama.

For the reasons more fully set forth in the accompanying Memorandum of Law, the criteria for the issuance of this preliminary injunction is satisfied here. *First*, there is a substantial likelihood that Plaintiffs will succeed on the merits of their claim that the undefined Positively Identify Provision constitutes a *per se* violation of the prohibition on voucher requirements in Section 201 of the Voting Rights Act of 1965, 52 U.S.C. § 10501(b)(4). *Second*, Plaintiffs will suffer irreparable harm in the absence of the preliminary injunction. *Third*, the balance of the equities clearly weighs in favor of a preliminary injunction. *Fourth*, the preliminary injunction will serve the public interest.

Accordingly, Plaintiffs respectfully request that this Court enter the preliminary injunction and order any such additional relief as it deems appropriate.

Respectfully submitted this 8th day of January 2016.

/s/ Deuel Ross
Christina Swarns*
Coty Montag*
Deuel Ross*
Liliana Zaragoza*
NAACP Legal Defense and
Educational Fund, Inc.
40 Rector Street, 5th Floor
New York, New York 10006
Tel: (212) 965-2200
Fax: (212) 226-7592
cswarns@naacpldf.org
cmontag@naacpldf.org
dross@naaacpldf.org
lzaragoza@naacpldf.org

/s/ Edward Still
Edward Still
Bar. No. ASB-4786-I 47W
Edward Still Law Firm LLC
429 Green Springs Hwy
STE 161-304
Birmingham, AL 35209
Tel & Fax: 205-320-2882
still@voteland.com

/s/ Robert D. Fram
Robert D. Fram*
Nathan E. Shafroth*
Michael S. Greenberg*
Covington & Burling LLP
One Front Street
San Francisco, CA 94111-5356
Tel: 415-591-6000
Fax: 415-591-6091
rfram@cov.com
nshafroth@cov.com
mgreenberg@cov.com

Joanne B. Grossman*
Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001-4956
Tel: 202-662-6000
Fax: 202-662-6291
jgrossman@cov.com

**Pro Hac Vice Motions Pending*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on 8 January 2016 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys:

NONE

and a copy of the foregoing was delivered by facsimile, email, and/or first class mail to the following:

James W. Davis
Laura Howell
Assistant Attorney General
Office of the Attorney General
501 Washington Avenue
Montgomery, Alabama 36130-
0152
(334) 242-7300
(334) 353-8440 (fax)
jimdavis@ago.state.al.us
lhowell@ago.state.al.us

J. Haran Lowe
Alabama Department of Law
Enforcement
Legal Unit
P.O. Box 1511
Montgomery, AL 36102-1511
(334) 242-4392
haran.lowe@dps.alabama.gov

David B. Byrne, Jr.
Chief Legal Advisor
Office of the Governor
Alabama State Capitol
600 Dexter Avenue, Ste. NB-05
Montgomery, Alabama 36130
(334) 242-7120
david.byrne@governor.alabama.gov

Jean W. Brown
Counsel
Secretary of State's Office
State Capitol Building - Suite S-105
600 Dexter Avenue
Montgomery AL 36130
Jean.Brown@sos.alabama.gov

/s/ Edward Still